

ATTACHMENT D1

POTENTIAL PERMANENT TREATMENT BMP MAINTENANCE MECHANISMS

1. Private projects: Project proponents must select a permanent treatment BMP maintenance mechanism for ensuring storm water BMPs maintenance, repair, and replacement in perpetuity. The City preferred maintenance mechanisms are as follows:

a. Public Storm Water BMPs. The City may approve the following funding mechanism:

- (i) A Community Facilities District or other funding mechanism requested by the project proponent; or
- (ii) A Home Owners Association. In this case, the project proponent and HOA shall enter into a grant of easement and maintenance agreement with and in a form acceptable to the City setting forth the terms and conditions for said maintenance.

b. Private Storm Water BMPs. The City may approve the following funding mechanism:

- (i) A Home Owners Association (“HOA”). The HOA formulation documents and the associated Covenants, Conditions, and Restrictions shall include the obligation of the HOA to provide for such maintenance in perpetuity; or
- (ii) A Private Entity for a project that meets the definition of SUSMP priority project (see SUSMP priority projects definition in Appendix B) where the project proponent request that it be maintained by the project owner or approved private entity. In this case, the project owner shall enter into a maintenance agreement with in a form acceptable to the City setting forth the terms and conditions for maintaining the proposed storm water treatment BMPs in perpetuity; or
- (iii) A Private Entity for a project that does not meet any of the definitions of the SUSMP priority project (see SUSMP priority projects definition in Appendix B). The City may allow the storm water BMPs to be maintained by the property owner or approved private entity. No maintenance agreement may be required in this case. Maintenance of the proposed storm water facilities would be enforced in accordance with the applicable City of Chula Vista ordinances, policies and regulations.

2. Lease provisions: In those cases where the City holds title to the land in question, and the land is being leased to another party for private or public use, the City may assure storm water BMP maintenance, repair and replacement through conditions in the lease.

3. Public entity maintenance: The City in its discretion may approve a public or acceptable quasi-public entity (e.g., the County Flood Control District, or annex to an

existing assessment district, an existing utility district, a state or federal resource agency, or a conservation conservancy) to assume responsibility for maintenance, repair and replacement of the BMP. Unless otherwise approved by the City, public entity maintenance agreements shall ensure estimated costs are front-funded or reliably guaranteed, (e.g., through a trust fund, assessment district fees, bond, letter of credit or similar means). In addition, the City may seek protection from liability by appropriate releases and indemnities. Storm water BMPs within the City's jurisdiction proposed for transfer to any other public entity will be subject to approval by the City before installation. The project proponent must take all steps necessary to ensure that the City is involved in the negotiation of maintenance requirements within its jurisdiction with any other public entities accepting maintenance responsibilities; and in negotiations with the resource agencies responsible for issuing permits for the construction and/or maintenance of the facilities. The City must be identified as a third party beneficiary empowered but not obligated to enforce any such maintenance agreement within its jurisdiction.

4. Conditional use permits: For discretionary projects only, the City may assure maintenance of storm water BMPs through the inclusion of maintenance conditions in the conditional use permit. Security may be required by the City in its discretion.

The City may in its discretion accept alternative maintenance mechanisms if such mechanisms are as protective as those listed above.